

1 HONORABLE RONALD B. LEIGHTON
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 COREY D. YOUNG,

11 Plaintiff,

12 v.

13 STATE OF WASHINGTON
14 DEPARTMENT OF CORRECTIONS,

15 Defendant.

CASE NO. C17-5572 RBL

ORDER ADOPTING REPORT AND
RECOMMENDATION

16 THIS MATTER is before the Court on Magistrate Judge Christel's Report and
17 Recommendation [Dkt. # 23], recommending that the Court GRANT Defendants' Motion for
18 Summary Judgment [Dkt. # 15], because Plaintiff Young failed to exhaust his administrative
19 remedies. Young objects, arguing that further administrative appeals would have been futile. He
20 also objects to the recommendation that his state law negligence claim be dismissed without
21 prejudice, arguing because the limitations period for that claim has run, the dismissal is
22 effectively with prejudice.

23 This Court would retain and exercise supplemental jurisdiction over that negligence
24 claim if Young would be precluded from asserting it in state court. But the limitations period on

1 that claim is tolled during the pendency of this federal case (and for 30 days after the case is
2 dismissed). 28 U.S.C. § 1367(d); *See also Artis v. District of Columbia*, 138 S. Ct. 594 (2018).

3 The Report and Recommendation is ADOPTED.

4 The Defendants' Motion for Summary Judgment is GRANTED.

5 Young's state law assault and battery claims are dismissed *with* prejudice. His § 1983 and
6 state law negligence claims are dismissed *without* prejudice.

7 IT IS SO ORDERED.

8 Dated this 21st day of May, 2018.

9
10 
11 Ronald B. Leighton
United States District Judge